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9
10 IN THE UNITED STATES DISTRICT COURT
11 WESTERN DISTRICT OF TEXAS

12 ROBERT PHILLIPS,

13 Plaintiff,

14 v.

15 SECURITY NATIONAL AUTOMOTIVE
16 ACCEPTANCE COMPANY, LLC,
17 EQUIFAX INFORMATION SERVICES,
18 LLC, EXPERIAN INFORMATION
19 SOLUTIONS, INC., and TRANSUNION,
20 LLC,

21 Defendants.

22 Case No.: 3:19-cv-00215

23 **COMPLAINT AND DEMAND FOR
24 JURY TRIAL**

25 1. FAIR CREDIT REPORTING ACT,
26 15 USC § 1681 *et al.*

27 **COMPLAINT AND DEMAND FOR JURY TRIAL**

28 Plaintiff Robert Phillips (“Plaintiff” or “Mr. Phillips”), through his attorneys,
29 alleges the following against Security National Automotive Acceptance Company, LLC
30 (“SNAAC”), Equifax Information Service, LLC (“Equifax”), Experian Information
31 Solutions, Inc. (“Experian”), and TransUnion, LLC (“TransUnion”):

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35 **INTRODUCTION**

1. Count I of Plaintiff's Complaint is based upon the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et. al.* The FCRA is a federal statute that broadly regulates the credit reporting agencies and furnishers of credit information. Among other things, the FCRA prohibits credit reporting agencies and furnishers from reporting incomplete or inaccurate information on a consumer's credit report.
2. Plaintiff alleges as follows upon personal knowledge as to himself and his own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by his attorneys.

JURISDICTION AND VENUE

3. Jurisdiction of the court arises under 28 U.S.C. § 1331, and 15 U.S.C. § 1681.
4. Venue is proper pursuant to 28 U.S.C. 1391(b)(2) in that a substantial part of the events or omissions giving rise to the claim occurred in this District.
5. Defendants transact business here; therefore, personal jurisdiction is established.

PARTIES

6. Plaintiff Robert Phillips is a natural person residing in El Paso County, Texas.
7. Plaintiff is a “consumer” as defined by 15 U.S.C. § 1681a(c).
8. Defendant SNAAC is a “person” as defined by 15 U.S.C. § 1681a(b).
9. Defendant SNAAC is a finance company that purchases and services retail sales finance contracts from auto dealers in the sale of new and used automobiles to consumers. SNAAC’s principal place of business is located at 6951 Cintas Blvd., Mason, OH 45040. Defendant SNAAC can be served through its registered agent Corporation Service Company, at 50 West Broad Street, Suite 1330, Columbus, OH 43215.
10. Defendant TransUnion LLC is a *credit reporting agency*, as defined in 15 U.S.C. § 1681a(f). On information and belief, TransUnion is regularly engaged in the business of assembling, evaluating, and disbursing information concerning consumers for the purpose of furnishing *consumer reports*, as defined in 15 U.S.C. § 1681a(d), to third

1 parties. TransUnion can be served through its registered agent Prentice Hall
2 Corporation, at 801 Adlai Stevenson Drive, Springfield, Illinois 62703.

3 11. On information and belief, TransUnion disburses the *consumer reports* to third
4 parties under contract for monetary compensation.

5 12. Defendant Experian Information Solutions, Inc., is a *credit reporting agency*, as
6 defined in 15 U.S.C. § 1681a(f). On information and belief, Experian is regularly
7 engaged in the business of assembling, evaluating, and disbursing information
8 concerning consumers for the purpose of furnishing *consumer reports*, as defined in
9 15 U.S.C. § 1681a(d), to third parties. Experian can be served through its registered
10 agent C T Corporation System, at 475 Anton Blvd, Costa Mesa, CA 92626.

11 13. On information and belief, Experian disburses the *consumer reports* to third parties
12 under contract for monetary compensation.

13 14. Defendant Equifax Information Services, LLC, is a *credit reporting agency*, as
14 defined in 15 U.S.C. § 1681a(f). On information and belief, Experian is regularly
15 engaged in the business of assembling, evaluating, and disbursing information
16 concerning consumers for the purpose of furnishing *consumer reports*, as defined in
17 15 U.S.C. § 1681a(d), to third parties. Equifax can be served through its registered
18 agent Lisa Stockard, at 1550 Peachtree Street, NW, H46, Atlanta, Ga 30309.

19 15. On information and belief, Equifax disburses the *consumer reports* to third parties
20 under contract for monetary compensation.

21 16. Defendants all acted through their agents, employees, officers, members, directors,
22 successors, assigns, principals, trustees, sureties, subrogees, representatives, and
23 insurers.

24 **FACTUAL ALLEGATIONS**

25 17. In or around July 2016, Mr. Phillips and his wife, Mrs. Phillips, purchased a vehicle
26 from a Kia Motors dealership, Casa Kia Inc. located in Texas.

1 18. Mr. Phillips and his wife signed the paperwork for the vehicle and was told that the
2 vehicle needed to be detailed before he could take it.

3 19. Mr. Phillips had to go out of town for work, so the dealership agreed to call Mrs.
4 Phillips when the vehicle was ready.

5 20. Three days later, Mrs. Phillips went to the dealership to pick up the vehicle.

6 21. At the dealership, Mrs. Phillips was informed that the paperwork for the auto loan
7 would have to be signed again because there was a problem with the vehicle's VIN
8 number.

9 22. When the car was brought to Mrs. Phillips, she noticed that it was not the same car;
10 this new car had a manual transmission and was a different color.

11 23. Mrs. Phillips informed the dealership that this was the wrong car and she could not
12 drive this car because it was a manual transmission.

13 24. The dealership stated that she should take the car anyway because she and Mr.
14 Phillips would be required to sign new paperwork when Mr. Phillips returned.

15 25. Plaintiff's son drove the vehicle home.

16 26. Thereafter, Mr. Phillips returned from his work trip and went to the dealership with
17 the incorrect vehicle.

18 27. The dealership stated if Mr. Phillips kept the car for 4 months and made the
19 payments, the dealership would have the car Mr. Phillips and Mrs. Phillips
20 originally wanted.

21 28. Mr. Phillips reluctantly agreed and signed the new paperwork under the new
22 agreement and guarantees given by the dealership.

23 29. Four months later, Mr. Phillips returned to the dealership to return the vehicle, but
24 the dealership stated that Mr. Phillips was not approved to trade the car in for
25 another vehicle.

26 30. The financial lender, SNAAC, was aware of the issue surrounding the VIN number.

27

28

1 31. Mr. Phillips contacted SNAAC to seek help from them in resolving the issue and
2 SNAAC informed Mr. Phillips this issue was between him and the dealership.
3 32. Because the dealership would not return the vehicle and allow the Plaintiff to trade
4 it, Plaintiff had no choice but to voluntarily surrender the vehicle in or around
5 January 2017.
6 33. On or about March 22, 2017, Defendant SNAAC sent Mr. Phillips an “Explanation
7 of Calculation of Surplus or Deficiency.”
8 34. The letter informed Mr. and Mrs. Phillips that the vehicle was disposed of on March
9 5, 2017 and explained how the proceeds of the sale were applied.
10 35. However, the letter referenced the KIA vehicle that was never given to Plaintiffs.
11 36. Thereafter, Defendant SNAAC began to report adverse information on Plaintiff’s
12 consumer credit report.

13 **BETTER BUSINESS BUREAU REPORT**

14 37. Mr. Phillips attempted to resolve the issue surrounding the outstanding balance on
15 the vehicle with the Kia dealership and with Defendant SNAAC.
16 38. However, Mr. Phillips was unsuccessful and thereafter reached out to the Better
17 Business Bureau.
18 39. On or about November 12, 2018, Mr. Phillips initiated a Complaint with the Better
19 Business Bureau (“BBB”) against the KIA dealership to help resolve the
20 outstanding balance for the vehicle.
21 40. Finally, on or about January 17, 2019, the KIA dealership responded to the BBB
22 Complaint and indicated that it would pay off Mr. Phillips’ outstanding balance
23 owed to the lender, Defendant SNAAC.
24 41. Furthermore, the KIA dealership stated that Defendant SNAAC would update Mr.
25 Phillips credit report to reflect as paid with a zero balance.

26 **CREDIT REPORTS**

27 42. On or about November 13, 2017, Mr. Phillips pulled his consumer credit reports.
28

- 1 a. Plaintiff's TransUnion credit report indicated that the SNAAC account
2 (account # 9001010199578XXXX) had a status of "collection/charge off,"
3 with a past due balance of \$10,171.00.
- 4 b. Plaintiff's Experian credit report indicated that the SNAAC account
5 (account # 9001010199578XXXX) had a status of "collection/charge off,"
6 with a past due balance of \$10,171.00.
- 7 c. Plaintiff's Equifax credit report indicated that the SNAAC account (account
8 # 9001010199578XXXX) had a status of "collection/charge off," with a past
9 due balance of \$10,171.00.

10 43. On or about March 11, 2018, Mr. Phillips disputed the SNAAC account with
11 Defendants TransUnion, Experian and Equifax.

12 44. Mr. Phillips' dispute letters stated that the SNAAC account debt was not valid and
13 that no debt was owed.

14 45. Upon information and belief, Defendants TransUnion, Experian and Equifax
15 forwarded the dispute letters to Defendant SNAAC within 5 business days of
16 receiving the dispute letters.

17 46. In or around April 2018, Defendants TransUnion, Experian and Equifax sent
18 Plaintiff the results of the investigation verifying the information as accurate.

19 47. On or about March 15, 2019, Mr. Phillips disputed the SNAAC account with
20 Defendants TransUnion, Experian and Equifax.

21 48. Mr. Phillips' dispute letters stated that the SNAAC account was resolved through
22 the BBB and is no longer in charged off status.

23 49. Upon information and belief, Defendants TransUnion, Experian and Equifax
24 forwarded the dispute letters to Defendant SNAAC within 5 business days of
25 receiving the dispute letters.

26 50. In or around May 2019, Defendants TransUnion, Experian and Equifax sent Mr.
27 Phillips the results of the investigation verifying the information as accurate.

28

1 51. On or about May 29, 2019, Mr. Phillips pulled his consumer credit reports.

2 a. Plaintiff's TransUnion credit report indicated that the SNAAC account
3 (account # 9001010199578XXXX) had a status of "collection/charge off."
4 b. Plaintiff's Experian credit report indicated that the SNAAC account
5 (account # 9001010199578XXXX) had a status of "collection/charge off."
6 c. Plaintiff's Equifax credit report indicated that the SNAAC account (account
7 # 9001010199578XXXX) had a status of "collection/charge off."

8 52. On or about May 30, 2019, Plaintiff disputed the SNAAC account with Defendants
9 TransUnion, Experian Equifax.

10 53. Mr. Phillips' dispute letters stated that the account was resolved and should have
11 been marked paid as agreed and a current status.

12 54. In or around June 2019, Defendants TransUnion, Experian and Equifax sent Mr.
13 Phillips the results of the investigation verifying the information as accurate.

14 55. At some point during the time Mr. Phillips' was sending his dispute letters
15 regarding the inaccurate SNAAC account, Defendant Equifax had duplicated the
16 SNAAC account on Mr. Phillips' credit report.

17 56. The inaccurate credit reporting caused Mr. Phillips to suffer stress, anxiety, and
18 frustration at the thought that his credit reports continued to report his accounts
19 inaccurately.

20 57. Furthermore, the inaccurate credit reporting was a continued reminder of how the
21 dealership and Defendant SNAAC took advantage of Mr. Phillips and his wife and
22 swapped the vehicle he wanted with a vehicle he did not want.

23 58. Defendants SNAAC, TransUnion, Experian and Equifax acted maliciously and/or
24 with gross negligence when they investigated Mr. Phillips' disputes.

25 59. Mr. Phillips had disputed the inaccurate reporting multiple times, and each time,
26 Defendants failed to conduct a reasonable investigation and continued to report the
27 inaccurate information.

60. As a result of the above violations of the FCRA, Plaintiff suffered from emotional and mental pain and anguish, and an inaccurate credit report.

61. Defendant is liable to Plaintiff for Plaintiff's actual damages, statutory damages, and costs and attorney's fees.

COUNT I

**Defendants TransUnion LLC, Experian Information Solutions, Inc., and Equifax
Information Services, LLC.**

(Violations of the FCRA, 15 U.S.C. § 1681 *et seq.*)

62. Plaintiff incorporates herein by reference all of the above paragraphs of this complaint as though fully set forth herein at length.

63. Defendants' conduct violated the FCRA. Defendants' violations include but are not limited to:

64. Defendants violated 15 U.S.C. § 1681e(b) by failing to follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates.

- a. Defendants reported the SNAAC account inaccurately even after several dispute letters from Mr. Phillips;
- b. Defendants failed to follow reasonable procedures to assure maximum possible accuracy of Plaintiff's information;
- c. The inaccurate reporting of Mr. Phillips' information caused him to suffer, stress, anxiety, headaches, frustration, and emotional and mental pain and anguish and a lower credit score.

65. Further, the FCRA provides that if the completeness or accuracy of any item of information contained in a consumer's file at a consumer reporting agency is disputed by the consumer and the consumer notifies the agency directly of such dispute, the agency shall conduct a reasonable reinvestigation to determine whether the disputed information is inaccurate, or it must delete the item from the file within

1 thirty (30) days of receiving the consumer's dispute notice. 15 U.S.C. §
2 1681i(a)(2)(A).

3 66. The FCRA further requires the credit reporting agency, within 5 business days of
4 receiving notice of the consumer’s dispute, to provide notification of the dispute to
5 the person who furnished the information in dispute and requires the credit
6 reporting agency to “include all relevant information regarding the dispute that the
7 agency received from the consumer.” 15 U.S.C. § 1681i(a)(2)(A). In conducting its
8 reinvestigation of disputed information in a consumer report, the credit-reporting
9 agency is required to “review and consider all relevant information submitted by
10 the consumer.”

11 67. Defendant Experian, TransUnion and Equifax failed to conduct a reasonable
12 reinvestigation of the inaccuracy that Mr. Phillips disputed in violation of 15 U.S.C.
13 § 1681i by indicating that Plaintiff had a balance on his SNAAC account even after
14 it was paid off.

15 68. Defendant Experian, TransUnion and Equifax failed to review and consider all
16 relevant information submitted by Mr. Phillips.

17 69. Defendants' acts, as described above, were done willfully and knowingly.

18 70. As a result of the foregoing violations of the FCRA, Defendants are liable to
19 Plaintiff for actual damages, statutory damages, and attorneys' fees and costs.

COUNT II

Defendant SNAAC

(Violations of the FCRA, 15 U.S.C. § 1681s-2(b))

23 71. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as
24 though fully stated herein at length.

25 72. On at least one occasion within the past two years, by example only and without
26 limitations, SNAAC violated 15 U.S.C. § 1681s-2(b)(1)(A) by failing to fully and
27 properly investigate the Mr. Phillips' disputes.

1 73. The FCRA requires a furnisher, such as SNAAC, after receiving notice from a
2 credit report agency that a consumer disputes information that is being reported by
3 that furnisher to conduct an investigation with respect to the dispute information, to
4 review all relevant information, to report the results of the investigation to the
5 credit reporting agency, and, if the investigation reveals that the information is
6 incomplete or inaccurate, to report those results to all other credit reporting
7 agencies to which the furnisher has provided the inaccurate information.

8 74. Plaintiff notified TransUnion, Experian and Equifax that the SNAAC account was
9 incorrect and that the account was resolved and should not be reporting as charged
10 off. Thereafter, TransUnion, Experian and Equifax notified SNAAC that Plaintiff
11 was disputing the information it had furnished to the credit reporting agency and
12 forwarded the dispute to SNAAC.

13 75. SNAAC is liable under sections 1681n and 1681o of the FCRA by engaging in the
14 following conduct that violates 15 U.S.C. § 1681s-2(B):

- 15 a. Willfully and negligently failing to conduct an investigation of the
16 inaccurate information that Plaintiff disputed;
- 17 b. Willfully and negligently failing to review all relevant information
18 concerning Plaintiff's SNAAC account;
- 19 c. Willfully and negligently failing to report the results of investigations to the
20 relevant consumer reporting agencies;
- 21 d. Willfully and negligently failing to report the inaccurate status balance and
22 status of the inaccurate information to all credit reporting agencies;
- 23 e. Willfully and negligently failing to properly participate, investigate and
24 comply with the reinvestigations that were conducted by any and all credit
25 reporting agencies concerning the inaccurate information disputed by
26 Plaintiff;

- f. Willfully and negligently continuing to furnish and disseminate inaccurate and derogatory credit, account and other information concerning Plaintiff to the credit reporting agencies; and
- g. Willfully and negligently failing to comply with the requirements imposed on furnishers of information pursuant to 15 U.S.C. § 1681s-2(b).

76. SNAAC is liable to compensate Plaintiff for the full amount of statutory, actual and punitive damages, along with attorneys' fees and costs, as well as other such relief permitted by 15 U.S.C. § 1681n and § 1681o.

PRAYER FOR RELIEF

10 **WHEREFORE**, Plaintiff Robert Phillips respectfully requests judgment be
11 entered against Defendants Security National Automotive Acceptance, LLC, TransUnion
12 LLC, Experian Information Solutions, Inc., and Equifax Information Services, LLC, for
13 the following:

- A. Declaratory judgment that Defendants' TransUnion LLC, Experian Information Solutions Inc., Equifax Information Services, LLC, and Security National Automotive Acceptance LLC, violated the FCRA;
- B. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1681n(b);
- C. Punitive damages pursuant to 15 U.S.C. § 1681n(a)(2);
- D. Costs and reasonable attorney's fees pursuant to 15 U.S.C. §§ 1681n(c) and 1681o(b);
- E. Punitive damages to be determined at trial, for the sake of example and punishing Defendant for their malicious conduct, pursuant to Tex. Civ. Prac. & Rem. Code § 41.003 *et seq.*
- F. Any pre-judgment and post-judgment interest as may be allowed under the law; and
- G. Any other relief that this Honorable Court deems appropriate.

JURY DEMAND

Plaintiff Robert Phillips hereby demands a trial by jury.

Respectfully submitted this 7th day of August 2019.

PRICE LAW GROUP, APC

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